Introduction

At the trial, two federal officers testified that on February 12, 1948, they searched petitioner in a room at 850 West End Avenue and found in his pocket twenty-three capsules of heroin (31-3, 47-51, 56-9, 61-5). The facts known to them which led them to make the search were not elucidated (*cf.* 39-43, 54-5, 65-7).

A New York City police officer testified that he took petitioner into custody when he received the heroin from the federal officers and that the petitioner admitted to him that he had had the drug in his possession (68-72).

Petitioner does not dispute that he in fact committed the crime charged (24-6, 29). His only claim here—one specifically considered by the Court of Appeals—is that the State courts committed constitutional error in refusing to dismiss the information on the ground that the search which disclosed the incriminating evidence violated his constitutional rights (79-80, 89-90).

POINT I

Certiorari should be denied.

Petitioner contends that the use against him of evidence acquired by illegal search and seizure violated the Fourth Amendment of the Constitution of the United States (petition pp. 6-13). This is without merit.

Petitioner was tried in a New York State court for a violation of New York State's narcotic laws. The use in that trial of evidence illegally obtained did not deprive him of his rights under the Fourth Amendment of the Constitution of the United States nor of due process of law [*Wolf* v. *Colorado,* 338 U. S. 25; *People* v. *Polizio* (1949) 298 N. Y. 814, 83 N. E. (2d) 861, cert. den. 337 U. S. 957; *People* v. *Defore* (1926) 242 N. Y. 13, 150 N. E. 585, cert. den. 270 U. S. 657].

The identity of the officers who made the seizure cannot affect the issue.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

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